

AMENDED IN SENATE JUNE 25, 2012

AMENDED IN ASSEMBLY MAY 7, 2012

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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2165

**Introduced by Assembly Member Hill
(Coauthor: Assembly Member Roger Hernández)**

February 23, 2012

An act to amend Section 2827.10 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 2165, as amended, Hill. Net energy metering: eligible fuel cell customer-generators.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. Existing law, relative to private energy producers, requires every electrical corporation to make available to an eligible fuel cell customer-generator, as defined, a standard contract or tariff for net energy metering on a first-come-first-served basis until the total cumulative rated generating capacity used by the eligible fuel cell customer-generators equals 45 megawatts within the service territory of the electrical corporation, for an electrical corporation with a peak demand above 10,000 megawatts, or equals 22.5 megawatts within the service territory of the electrical corporation, for an electrical corporation with a peak demand of 10,000 megawatts or below. Existing law additionally limits the combined statewide cumulative rated generating capacity used by the eligible fuel cell customer-generators in the service

territories of all electrical corporations in the state to not more than 112.5 megawatts.

This bill would revise the definition of an eligible fuel-cell customer-generator to require that the customer be physically located within the service territory of the electrical corporation and receive bundled service, distribution service, or transmission service from the electrical corporation. In place of the existing maximum megawatt limitations upon an electrical corporation's obligation to offer the tariff, the bill would require the electrical corporation to make the tariff available until the total cumulative rated generating capacity of the eligible fuel cell electrical generating facilities receiving service pursuant to the tariff reaches ~~1 percent of the aggregate customer peak demand for the electrical corporation's service territory~~ *a level equal to its proportionate share of a statewide limitation of 500 megawatts cumulative rated generation capacity, calculated as prescribed*. The bill would authorize the commission, in order to continue the growth of the market for onsite electric generation using fuel cells, to review and incrementally raise this ~~1-percent cap~~ *limitation* on the total cumulative rated generating capacity of the eligible fuel cell electrical generating facilities receiving service pursuant to the tariff. The bill would require the commission to authorize an electrical corporation to charge a customer a fee based on the cost to the utility associated with providing interconnection inspection services for that customer. *The bill would provide that no fuel cell electrical generating facility is eligible for the tariff unless it commences operation prior to January 1, 2015, unless this eligibility commencement date is extended by statute. The bill would provide that the tariff remains in effect for an eligible fuel cell electrical generating facility that commences operation pursuant to the tariff prior to January 1, 2015.*

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the bill expands the duties of an electrical corporation in offering net energy metering and an order of the commission would be required to implement these requirements, the bill would impose a state-mandated local program by expanding the definition of a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2827.10 of the Public Utilities Code is
2 amended to read:
3 2827.10. (a) As used in this section, the following terms have
4 the following meanings:
5 (1) “Electrical corporation” means an electrical corporation, as
6 defined in Section 218.
7 (2) “Eligible fuel cell electrical generating facility” means a
8 facility that includes the following:
9 (A) Integrated powerplant systems containing a stack, tubular
10 array, or other functionally similar configuration used to
11 electrochemically convert fuel to electric energy.
12 (B) An inverter and fuel processing system where necessary.
13 (C) Other plant equipment, including heat recovery equipment,
14 necessary to support the plant’s operation or its energy conversion.
15 (3) (A) “Eligible fuel cell customer-generator” means a
16 customer of an electrical corporation that meets all the following
17 criteria:
18 (i) Uses a fuel cell electrical generating facility with a capacity
19 of not more than one megawatt that is located on or adjacent to
20 the customer’s owned, leased, or rented premises, is interconnected
21 and operates in parallel with the electric grid while the grid is
22 operational or in a grid independent mode when the grid is
23 nonoperational, and is sized to offset part or all of the eligible fuel
24 cell customer-generator’s own electrical requirements.
25 (ii) Is the recipient of local, state, or federal funds, or who
26 self-finances projects designed to encourage the development of
27 eligible fuel cell electrical generating facilities.
28 (iii) Uses technology the commission has determined will
29 achieve reductions in emissions of greenhouse gases pursuant to
30 subdivision (b), and meets the emission requirements for eligibility
31 for funding set forth in subdivision (c), of Section 379.6.
32 (B) For purposes of this paragraph, a person or entity is a
33 customer of the electrical corporation if the customer is physically

1 located within the service territory of the electrical corporation
2 and receives bundled service, distribution service, or transmission
3 service from the electrical corporation.

4 (4) “Net energy metering” means measuring the difference
5 between the electricity supplied through the electrical grid and the
6 difference between the electricity generated by an eligible fuel cell
7 electrical generating facility and fed back to the ~~electric~~ *electrical*
8 grid over a 12-month period as described in subdivision (e). Net
9 energy metering shall be accomplished using a time-of-use meter
10 capable of registering the flow of electricity in two directions. If
11 the existing electrical meter of an eligible fuel cell
12 customer-generator is not capable of measuring the flow of
13 electricity in two directions, the eligible fuel cell
14 customer-generator shall be responsible for all expenses involved
15 in purchasing and installing a meter that is able to measure
16 electricity flow in two directions. If an additional meter or meters
17 are installed, the net energy metering calculation shall yield a result
18 identical to that of a time-of-use meter.

19 ~~(b) (1) Every electrical corporation shall, corporation, not later~~
20 ~~than March 1, 2004, shall file with the commission a standard~~
21 ~~tariff providing for net energy metering for eligible fuel cell~~
22 ~~customer-generators, consistent with this section. Every Subject~~
23 ~~to the limitation in subdivision (f), every electrical corporation~~
24 ~~shall make this tariff available to eligible fuel cell~~
25 ~~customer-generators upon request, on a first-come-first-served~~
26 ~~basis, until the total cumulative rated generating capacity of the~~
27 ~~eligible fuel cell electrical generating facilities receiving service~~
28 ~~pursuant to the tariff reaches 1 percent of the aggregate customer~~
29 ~~peak demand for the electrical corporation’s service territory. An~~
30 ~~electrical corporation is not obligated to provide net energy~~
31 ~~metering to an eligible fuel cell customer-generator when the total~~
32 ~~cumulative rated generating capacity of the eligible fuel cell~~
33 ~~electrical generating facilities receiving service pursuant to the~~
34 ~~tariff is equal to or exceeds 1 percent of the aggregate customer~~
35 ~~peak demand for the electrical corporation’s service territory. a~~
36 ~~level equal to its proportionate share of a statewide limitation of~~
37 ~~500 megawatts cumulative rated generation capacity served under~~
38 ~~this section. The proportionate share shall be calculated based on~~
39 ~~the ratio of the electrical corporation’s peak demand compared~~
40 ~~to the total statewide peak demand.~~

(2) To continue the growth of the market for onsite electric generation using fuel cells, the commission may review and incrementally raise the ~~1-percent cap~~ *limitation established in paragraph (1)* on the total cumulative rated generating capacity of the eligible fuel cell electrical generating facilities receiving service pursuant to the tariff in paragraph (1).

(c) In determining the eligibility for the cumulative rated generating capacity within an electrical *corporation's* service ~~area~~ *territory*, preference shall be given to facilities ~~which~~ *that*, at the time of installation, are located in a community with significant exposure to air contaminants or localized air contaminants, or both, including, but not limited to, communities of minority populations or low-income populations, or both, based on the ambient air quality standards established pursuant to Section 39607 of the Health and Safety Code.

(d) (1) Each net energy metering contract or tariff shall be identical, with respect to rate structure, all retail rate components, and any monthly charges, to the contract or tariff to which the customer would be assigned if the customer was not an eligible fuel cell customer-generator. Any new or additional demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or other charge that would increase an eligible fuel cell customer-generator's costs beyond those of other customers in the rate class to which the eligible fuel cell customer-generator would otherwise be assigned are contrary to the intent of the Legislature in enacting ~~the act adding~~ this section, and may not form a part of net energy metering tariffs.

(2) The commission shall authorize an electrical corporation to charge a fuel cell customer-generator a fee based on the cost to the utility associated with providing interconnection inspection services for that fuel cell customer-generator.

(e) The net metering calculation shall be made by measuring the difference between the electricity supplied to the eligible *fuel cell* customer-generator and the electricity generated by the eligible *fuel cell* customer-generator and fed back to the ~~electric~~ *electrical* grid over a 12-month period. The following rules shall apply to the annualized metering calculation:

(1) The eligible fuel cell customer-generator shall, at the end of each 12-month period following the date of final interconnection of the eligible fuel cell electrical generating facility with an

1 electrical corporation, and at each anniversary date thereafter, be
2 billed for electricity used during that period. The electrical
3 corporation shall determine if the eligible fuel cell
4 customer-generator was a net consumer or a net producer of
5 electricity during that period. For purposes of determining if the
6 eligible fuel cell customer-generator was a net consumer or a net
7 producer of electricity during that period, the electrical corporation
8 shall aggregate the electrical load of the eligible fuel cell
9 customer-generator under the same ownership. Each aggregated
10 account shall be billed and measured according to a time-of-use
11 rate schedule.

12 (2) At the end of each 12-month period, where the electricity
13 supplied during the period by the electrical corporation exceeds
14 the electricity generated by the eligible fuel cell customer-generator
15 during that same period, the eligible fuel cell customer-generator
16 is a net electricity consumer and the electrical corporation shall
17 be owed compensation for the eligible fuel cell
18 customer-generator's net kilowatthour consumption over that same
19 period. The compensation owed for the eligible fuel cell
20 customer-generator's consumption shall be calculated as follows:

21 (A) The generation charges for any net monthly consumption
22 of electricity shall be calculated according to the terms of the tariff
23 to which the same customer would be assigned to or be eligible
24 for if the customer was not an eligible fuel cell customer-generator.
25 ~~When the eligible fuel cell customer-generators~~ *customer-generator*
26 *is a net generator during any discrete time-of-use period, the net*
27 *kilowatthours produced shall be valued at the same price per*
28 *kilowatthour as the electrical corporation would charge for retail*
29 *kilowatthour sales for generation, exclusive of any surcharges,*
30 *during that same time-of-use period. If the eligible fuel cell*
31 *customer-generator's time-of-use electrical meter is unable to*
32 *measure the flow of electricity in two directions, paragraph (4) of*
33 *subdivision (a) shall apply. All other charges, other than generation*
34 *charges, shall be calculated in accordance with the eligible fuel*
35 *cell customer-generator's applicable tariff and based on the total*
36 *kilowatthours delivered by the electrical corporation to the eligible*
37 *fuel cell customer-generator. To the extent that charges for*
38 *transmission and distribution services are recovered through*
39 *demand charges in any particular month, no standby reservation*
40 *charges shall apply in that monthly billing cycle.*

1 (B) The net balance of moneys owed shall be paid in accordance
2 with the electrical corporation's normal billing cycle.

3 (3) At the end of each 12-month period, where the electricity
4 generated by the eligible fuel cell customer-generator during the
5 12-month period exceeds the electricity supplied by the electrical
6 corporation during that same period, the eligible fuel cell
7 customer-generator is a net electricity producer and the electrical
8 corporation shall retain any excess kilowatthours generated during
9 the prior 12-month period. The eligible fuel cell customer-generator
10 shall not be owed any compensation for those excess kilowatthours.

11 (4) If an eligible fuel cell customer-generator terminates service
12 with the electrical corporation, the electrical corporation shall
13 reconcile the eligible fuel cell customer-generator's consumption
14 and production of electricity during any 12-month period.

15 ~~(f)A~~

16 *(f) No fuel cell electrical generating facility shall be eligible for*
17 *the tariff unless it commences operation prior to January 1, 2015,*
18 *unless a later enacted statute, that is chaptered before January 1,*
19 *2015, extends this eligibility commencement date. The tariff shall*
20 *remain in effect for an eligible fuel cell electrical generating facility*
21 *that commences operation pursuant to the tariff prior to January*
22 *1, 2015. A fuel cell customer-generator shall be eligible for the*
23 *tariff established pursuant to this section only for the operating*
24 *life of the eligible fuel cell electrical generating facility.*

25 SEC. 2. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.